

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY



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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:
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Date of mailing
(day/month/year) 22 SEP 2006

Applicant's or agent's file reference

35693.8318

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US05/20867

International filing date (day/month/year)

14 June 2005 (14.06.2005)

Priority date (day/month/year)

23 August 2004 (23.08.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC: A41D 1/08 (2006.01)

USPC: 2/267,228,466

Applicant

DASHAMERICA INC

I. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US
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Date of completion of this opinion

14 August 2006 (14.08.2006)

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Form PCT/ISA/237 (cover sheet) (April 2005)

6-14-07

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International

PCT/US05/20867

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International Application No.
PCT/US05/20857

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims Please See Continuation Sheet YES

Claims Please See Continuation Sheet NO

Inventive step (IS)

Claims Please See Continuation Sheet YES

Claims Please See Continuation Sheet NO

Industrial applicability (IA)

Claims Please See Continuation Sheet YES

Claims Please See Continuation Sheet NO

2. Citations and explanations:

Claims 1, 4-9, 12-15, 17-24, 26-35, 37, 39-47 and 49-54 lack novelty under PCT Article 33(2) as being anticipated by Forsyth et al. (US 6,565,702).

Forsyth et al. teaches a chamois comprising a first cloth layer being relatively elastic and having a garment facing side. A second cloth layer the second cloth layer being relatively elastic and having a body facing side. A first foam layer coupled to the first cloth layer opposite the garment facing side and located between the first cloth layer and the second cloth layer. The first foam layer being relatively elastic such that the chamois stretches. At least one foam pad being coupled to the first foam layer and being relatively inelastic and arranged between the first foam layer and the second cloth layer such that a portion of the chamois is relatively elastic and a portion of the chamois is relatively inelastic (see figures 15-20).

Further, Forsyth teaches the second cloth layer comprises at least one relatively inelastic portion. The at least one relatively inelastic portion being substantially aligned with the at least one foam pad, such that the second cloth layer may stretch in multiple direction by the at least one inelastic portion of the second cloth layer inhibits stretching in the portion. The first cloth layer comprises at least one relatively inelastic portion and is substantially aligned with the at least one foam pad, such that the first cloth layer may stretch in multiple direction but the at least one inelastic portion of the first cloth layer inhibits stretching in that portion (figures 15-20: column 9, lines 8-61).

The at least one foam pad comprises a plurality of foam pads of multiple density foam. At least one foam pad comprises a first density and the first foam layer comprises a second density less than the first density. The first cloth layer, the second cloth layer, the first foam layer and the at least one foam pad are flexible (figures 6-8).

Additionally, Forsyth et al. teaches the first foam layer having at least one through hole and the at least one foam pad being sized to fit in the at least one through hole and coupled to the first foam layer in the at least one through hole. The relatively inelastic material comprises a synthetic leather (figures 15-20).

Claims 2, 3, 16 and 25 lack an inventive step under PCT Article 33(3) as being obvious over Forsyth et al. in view of Sessoms (US 5,388,271).

Forsyth et al. teaches a padded cycling chamois as desired above in claims 1, 13 and 20. However, Forsyth et al. fails to teach an anti-microbial material in the second cloth.

Sessoms teaches a padded athletic garment having an outer garment layer made from an anti-microbial material (column 3, lines 43-68).

It would have been obvious to have provided the padded cycling chamois of Forsyth et al. with the anti-microbial outer garment material of Sessoms, since the padded cycling chamois of Forsyth et al. provided with an anti-microbial outer garment material would provide a garment with padded for athletic purposes that prevents bacteria growth.

Claims 10, 11, 36, 38 and 48 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a second foam layer being coupled to the second cloth layer opposite the body facing side and located between the at least one foam pad and the second cloth layer.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V.I. Reasoned Statements:

The opinion as to Novelty was positive (Yes) with respect to claims 2, 3, 10, 11, 16, 25, 36, 38 and 48

The opinion as to Novelty was negative (No) with respect to claims 1, 4-9, 12-15, 17-24, 26-35, 37, 39-47 and 49-54

The opinion as to Inventive Step was positive (Yes) with respect to claims 10, 11, 36, 38 and 48

The opinion as to Inventive Step was negative (NO) with respect to claims 1-9, 12-35, 37, 39-47 and 49-54

The opinion as to Industrial Applicability was positive (YES) with respect to claims 1-54

The opinion as to Industrial Applicability was negative (NO) with respect to claims NONE